

AMENDED IN ASSEMBLY MAY 5, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 349

Introduced by Assembly Member Gonzalez

February 17, 2015

An act to amend Section 4735 of the Civil Code, relating to common interest developments.

LEGISLATIVE COUNSEL'S DIGEST

AB 349, as amended, Gonzalez. Common interest developments: property use and maintenance.

The Davis-Stirling Common Interest Development Act governs the management and operation of common interest developments. Existing law provides that, unless otherwise provided in the common interest development declaration, the association is responsible for repairing, replacing, or maintaining the common area, other than exclusive use common area, and the owner of each separate interest is responsible for maintaining that separate interest and any exclusive use common area appurtenant to that interest. Existing law makes void and unenforceable any provision of the governing documents or architectural or landscaping guidelines or policies that prohibits use of low water-using plants, or prohibits or restricts compliance with water-efficient landscape ordinances or regulations on the use of water, as specified.

Existing law also prohibits an association, except an association that uses recycled water for landscape irrigation, from imposing a fine or assessment on separate interest owners for reducing or eliminating watering of vegetation or lawns during any period for which the

Governor has declared a state of emergency or the local government has declared a local emergency due to drought.

This bill would also make void and unenforceable any provision of the governing documents or architectural or landscaping guidelines or policies that prohibits use of ~~low water-using landscapes that require not more than a specified amount of water~~, artificial turf or any other synthetic surface that resembles grass.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature hereby finds and declares:
2 (a) With the lowest snowpack ever recorded, California finds
3 itself in 2015 in the fourth year of a historic, prolonged, and
4 potentially devastating drought.
5 (b) Governor Jerry Brown issued an Executive Order on April
6 1, 2015, which, for the first time in California history, directs the
7 State Water Resources Control Board to implement mandatory
8 water reductions across the state to reduce water usage by 25
9 percent.
10 (c) One component of the Governor's Executive Order compels
11 the replacement of 50 million square feet of lawns throughout the
12 state with drought tolerant landscaping.
13 (d) Among a wide variety of drought tolerant landscaping are
14 a variety of native plants and landscaping alternatives, including
15 the installation of synthetic grass or artificial turf.
16 (e) According to the Department of Water Resources, landscape
17 irrigation represents 43 percent of urban water use. The
18 installation of artificial turf or synthetic grass, in lieu of
19 conventional lawns and landscapes, can directly reduce outdoor
20 water use to help meet the Governor's mandated 25-percent
21 statewide water use reduction.
22 (f) The vast majority of Californians may today elect to install
23 artificial turf or synthetic grass in their single-family residential
24 landscapes. Homeowners within common interest developments
25 should also be afforded a similar opportunity within appropriate
26 design, aesthetic, and drainage standards defined by their
27 homeowners' association.

1 ~~SECTION 1.~~

2 SEC. 2. Section 4735 of the Civil Code is amended to read:

3 4735. (a) Notwithstanding any other law, a provision of the
4 governing documents or architectural or landscaping guidelines
5 or policies shall be void and unenforceable if it does any of the
6 following:

7 (1) Prohibits, or includes conditions that have the effect of
8 prohibiting, the use of low water-using plants as a group or as a
9 replacement of existing turf.

10 (2) Prohibits, or includes conditions that have the effect of
11 prohibiting, the use of ~~low water-using landscapes that require an~~
12 ~~amount of water that is not more than the amount of water required~~
13 ~~by low water-using plants.~~ *artificial turf or any other synthetic*
14 *surface that resembles grass.*

15 (3) Has the effect of prohibiting or restricting compliance with
16 either of the following:

17 (A) A water-efficient landscape ordinance adopted or in effect
18 pursuant to subdivision (c) of Section 65595 of the Government
19 Code.

20 (B) Any regulation or restriction on the use of water adopted
21 pursuant to Section 353 or 375 of the Water Code.

22 (b) This section shall not prohibit an association from applying
23 landscaping rules established in the governing documents, to the
24 extent the rules fully conform with subdivision (a).

25 (c) Notwithstanding any other provision of this part, an
26 association, except an association that uses recycled water, as
27 defined in Section 13050 of the Water Code, for landscaping
28 irrigation, shall not impose a fine or assessment against an owner
29 of a separate interest for reducing or eliminating the watering of
30 vegetation or lawns during any period for which either of the
31 following have occurred:

32 (1) The Governor has declared a state of emergency due to
33 drought pursuant to subdivision (b) of Section 8558 of the
34 Government Code.

35 (2) A local government has declared a local emergency due to
36 drought pursuant to subdivision (c) of Section 8558 of the
37 Government Code.